

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

JEROME DAVIS,

Plaintiff,

vs.

MARK ASHFORD,

Defendant.

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4:06cv3013

MEMORANDUM AND ORDER

This matter is before the court on filing no. 14, the Judgment and Mandate by the Eighth Circuit Court of Appeals dismissing the appeal by the plaintiff, Jerome Davis, and assessing the \$255 appellate filing and docketing fees against Mr. Davis. Because the plaintiff is a prisoner subject to the Prison Litigation Reform Act, the Eighth Circuit's Judgment states in pertinent part: "The full \$255.00 appellate filing and docketing fees are assessed against the appellant. Appellant may pay the filing fee in installments in accordance with 28 U.S.C. Sec. 1915(b). The court remands the assessment and collection of those fees to the district court."

The Eighth Circuit has instructed this court to assess an initial partial filing fee in a reasonable amount based on information available to the court. Henderson v. Norris, 129 F.3d 481, 484 (8th Cir. 1997). In this case, filing no. 6, the plaintiff's trust account information of January 30, 2006 results in an initial appellate partial fee of \$2.40, subject to availability of funds in the plaintiff's inmate trust account. The remainder of the \$255.00 fees shall be collected in installments in the manner specified by 28 U.S.C. § 1915(b)(2).

THEREFORE, IT IS ORDERED:

1. That the Eighth Circuit Court of Appeals has adjudged the plaintiff liable for the full \$255.00 appellate filing and docketing fees;
2. That, because the plaintiff is a prisoner, the fees may not be waived but may be paid in installments pursuant to 28 U.S.C. § 1915(b);
3. That the plaintiff's custodian shall collect from the plaintiff's inmate trust account an initial partial appellate filing fee of \$2.40, and shall remit that amount to the Clerk of Court as funds become available;
4. That, thereafter, all present and future custodians of the plaintiff shall collect and remit the balance of the \$255.00 appellate filing fees in the manner required by 28 U.S.C. § 1915(b)(2); and

5. That the Clerk of the Court shall send a copy of this Memorandum and Order to the appropriate financial officer for the plaintiff's institution.

July 7, 2006.

BY THE COURT:

s/ Richard G. Kopf
United States District Judge